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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of
Yasushi Sakai
Application No. 10/626,525
Filed: July 25, 2003
Attorney Docket No. OHT-0019

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: DECISION ON PETITION
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This is a decision on the petition filed June 4, 2004, requesting that the above-identified application be accorded a filing date of July 25, 2003.

The application was deposited on July 25, 2003. However, on May 18, 2004, Initial Patent Examination Division mailed a Notice stating that, while a filing date had been accorded the application papers, a drawing of Figure 1 described in the specification was omitted from the application.

In response, on June 4, 2004, the present petition and requisite petition fee were filed. Petitioner argues that twelve (12) sheets of drawings were included with the application papers deposited on July 25, 2003. As evidence thereof, petitioner submitted a copy of his postcard receipt. Petitioner requests that the application, including a drawing of Figure 1, be accorded a filing date of July 25, 2003. A copy of one sheet of drawing containing Figure 1 was also submitted.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO. See MPEP 503. A review of the postcard receipt reveals that: (1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on July 25, 2003; (2) it specifically identifies the items being filed, including *inter alia* "Drawings (12 sheets)"; and (3) it lacks any annotation of non-receipt of any item denoted on the postcard.

A review of the application file uncovers eleven (11) sheets of drawings filed July 25, 2003, with no sheet containing a drawing of Figure 1 present among the application papers. However, the evidence is convincing that the application papers deposited on July 25, 2003 contained twelve (12) sheets of drawings including a drawing of Figure 1, which was subsequently misplaced in the PTO. Therefore, petitioner has shown that a drawing of Figure 1 was among the items present in the application on the date of deposit and should be included in the original disclosure.

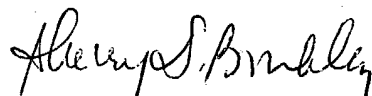
In view of the above, the petition is GRANTED. The one (1) sheet of drawing containing Figure 1 submitted with the petition will be used for examination purposes.

The Notice mailed May 18, 2004, was sent in error and is hereby vacated. Since the petition was a result of PTO error, the \$130.00 petition fee is being refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of July 25, 2003, using the application papers filed July 25, 2003 and the one

(1) sheet of drawing filed June 4, 2004, and an indication on the bibliographic data sheet that twelve (12) sheets of drawings were included on filing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to Initial Patent Examination Division processing should be directed to their hotline at (703) 308-1202.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination